IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3128 OF 2006

Shri Babasaheb Dattatraya Galinde ....Applicant.

V/s

Shri Kiran Pandurang Pore & anr. .....Respondents.

Mr. Sagar Joshi for the applicant.

Mr. Gaikwad i/b Mr. V.S. Talkute for Respondent No.1.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 3rd October, 2007.

P.C.:

1. Heard the learned Counsel appearing on behalf of the applicant.

2. Applicant is challenging the order passed by the Trial Court whereby the complaint filed by the complainant under section 138 of the Negotiable Instruments Act was dismissed and the respondent - accused was acquitted.

3. The learned Counsel appearing on behalf of the applicant invited my attention to the impugned order. He submitted that the Trial Court had rejected the complaint filed by the complainant

merely on the ground that there is an alternation in respect of the amount which is mentioned in the said cheque and, therefore, in view of section 87 of the Negotiable Instruments Act, the cheque was not a valid cheque. The learned Counsel submitted that there is no alteration and that the words and figure perfectly tally. He also invited my attention to the memo issued by the Bank. He submitted that the cheque was dishonoured because the amount was not arranged for.

4. It is not possible to accept the said submission. A xerox copy of the cheque which is annexed at Exhibit-B at page 8 clearly indicates that there is material alternation in respect of the amount and no initial had been made by the accused. It was incumbent, therefore, on the complainant to have obtained initial on the said alteration. In the absence of initials in the place where there is overwriting, the cheque is not a valid negotiable instrument. Hence, no case is made out for grant of leave. Leave to file appeal is refused. Application is accordingly dismissed.

(V.M. KANADE, J.)